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YOUNG & JATLOW

2300 N STREET, N. W.

SUITE 600

WASHINGTON, D. C. 20037

DAVID C. JATLOW
FRANCIS L. YOUNG*

*ADMITTED IN TEXAS

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TELEPHONE
(202) 663-9080

TELEFAX
(202) 331-8001

March 29, 1993

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

In re: CC Docket No. 93-36
Comments of RGT Utilities, Inc.

Dear Ms. Searcy:

Transmitted herewith on behalf of RGT Utilities, Inc. is an original and four

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FEDERAL COMMUNICATIONS COMMISSION
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To: The Commission

¹AT&T v. FCC, 978 F.2d 727 (D.C. Cir. 1992), rehearing en banc denied, January 21, 1993 (hereinafter referred to as "Forbearance Decision").

day's notice. RGT agrees with the Commission's conclusion that a 14 day notice period could lead to anticompetitive conduct because it gives competitors a chance to develop a market response to a carrier's tariff before that tariff becomes effective.² By allowing tariffs to become effective on one day's notice the Commission would serve to maintain a "level playing field" between competitive carriers and would prevent collusive rates from being implemented for similar services.

Moreover, it would allow carriers engaged in highly competitive services to react quickly to changes in the marketplace. For nondominant carriers whose margins are relatively slim, the ability to respond quickly to changes in the marketplace is imperative to maintaining profitability.

On balance, RGT believes that the public interest is better served by the preservation of a competitive marketplace over pre-effective tariff review. Tariff review, if necessary, can be conducted subsequent to the effective date of a tariff transmittal since Section 204 of the Act specifically allows the FCC to conduct hearings and/or other types of inquiries concerning the lawfulness of any tariff. Moreover, the public interest in minimizing unnecessary proceedings would be served in that review will take place only when necessary.

In the NPRM the Commission proposes to allow the tariffs of nondominant carriers to contain a maximum rate or a range of rates thereby eliminating the need for nondominant carriers to file new schedules whenever rate changes are made. The Commission also proposes to allow nondominant carriers to submit tariffs without

²See NPRM, paragraph 15.

being required to follow strict guidelines as to form.

RGT wholeheartedly supports these proposals and agrees with the Commission that such changes would eliminate many significant burdens on nondominant carriers and on the Commission as well.

If nondominant carriers are allowed to file tariffs that contain a maximum rate or a range of rates, they will not have to file as many tariff transmittals as would be the case if individual rates have to be submitted. In a competitive telecommunications market, especially for resale carriers who are dependent upon facilities-based underlying carriers, the filing of individual rates could result in numerous tariff transmittals being filed by individual carriers on a weekly basis. Because the filing fee for every tariff transmittal is \$490 there is likely to be an adverse economic impact on many, small, nondominant resale carriers. In addition to these direct out of pocket costs, small businesses will have to expend substantial personnel resources to prepare the numerous tariff transmittals that are necessary as a result of the Forbearance Decision. When these costs are calculated for individual carriers and then multiplied by the hundreds of carriers who have recently become subject to tariff filings, it becomes easy to see that substantial sums will be expended to comply with the Court's directive and existing Commission rules.

In addition to the costs imposed on the private sector, the Commission must take into account its own resource expenditure as a result of the Forbearance Decision. As mentioned above, there are hundreds of nondominant carriers who were not heretofore subject to mandatory tariff filing requirements who are now required to

submit tariffs. This will create a tremendous, continuing flood of tariff transmittals if the proposals in the NPRM are not adopted. In today's difficult economic climate, especially as it relates to the ability of government agencies to accomplish their goals with an already overburdened staff, it is counterproductive to increase the Commission's workload when agency resources are not necessary to protect the public interest.

The Commission has already determined that nondominant carriers can not exert undue influence in the marketplace and with respect to resale carriers, rates, as a practical matter, are capped by the rates of the underlying facilities-based carrier. Thus, since the marketplace itself serves to effectively prevent nondominant resale carriers from violating the general tenets of Title II of the Communications Act, there appears to be no reason not to adopt a regulatory scheme such as that proposed by the Commission. Nondominant carriers will not be overburdened with rules which are unnecessary to accomplish the desired purpose; the resources of private industry and the Commission will not be wasted when such an expenditure is unnecessary; and more importantly, the public interest will not be harmed by adoption of the Commission's proposal.

For the foregoing reasons, RGT applauds the Commission's proposal to streamline its tariff filing rules for domestic nondominant common carriers. In light of the United States Court of Appeals for the District of Columbia Circuits' finding that

permissive detariffing is inconsistent with Section 203 of the Communications Act,
RGT believes the Commission's NPRM meets its statutory obligations and is in the
public interest.

Respectfully submitted,



David C. Jatlow
Counsel for RGT Utilities, Inc.

Young & Jatlow
2300 N Street, N.W.
Suite 600
Washington, DC 20037
(202) 663-9080

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